
DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

DDDS Fox Run
2540 Wrangle Hill Rd
2nd Floor Conference Room "A"
Bear, DE 19701

FINAL

Meeting July 10, 2018
Minutes

Commission Member(s) Present: Lisa Furber, DNHRQAC Chair; Karen Gallagher; Yrene Waldron; Lt Gov. Bethany Hall-Long; Amy Milligan; and Dr. Michela Coffaro, Psy D. Also in attendance, Deputy Attorney General Karin Volker, Esquire.

Commission Member (s) Absent: Representative Kim Williams.

Others Present: Margaret Bailey, Ashley Sowand, Aide to Karen Gallagher; Hooshang Shanehsaz, DSAAPD; Dava Newnam, DSAAPD; Maria Miller, St Francis Life; Deborah Akinola, Neighbor Care HCFS; Melissa Winters, DHCI; Donna O'Hanlon, DMMA; Master Morgan Zurn, Court of Chancery; and Karen Netta, ACTS Signature Hospice.

1. Call to order

The meeting was called to order at 9:35 AM by Margaret Bailey.

2. Approval of the Minutes for the meeting of:

The meeting minutes draft of July 11, 2017, September 12, 2017, November 14, 2017, January 9, 2018, March 13, 2018 & May 8, 2018 were not voted upon due to lack of quorum.

3. Discussion of:

Court of Chancery/Guardianships

Honorable Morgan Zurn, Master for Delaware Court of Chancery, provided commission members with an overview of the guardianship process. Currently, there are two Masters that preside over Delaware guardianship cases.

In the Court of Chancery, a Guardian is a person appointed by the Court to make medical and/or financial decisions for a disabled person. There are three types of guardianships: guardianship of an adult person, guardianship of an adult person's property and guardianship of the property of a minor child who is under eighteen.

Delaware law empowers the Court to appoint a guardian for a person with a mental or physical disability who also is in danger and needs assistance in the form of a guardianship. Taking the step to become a guardian for an adult should be a last resort and should only be considered when other alternatives have failed or are no longer appropriate. Alternatives to guardianship include acting as a surrogate decision maker or having the individual execute an Advance Health-Care Directive and/or Durable Personal Power of Attorney appointing an agent. Many individuals with mental or physical disabilities have the ability to

understand the nature of these documents and what the documents will allow others to do for them. These alternatives also allow the person with a disability to retain his or her individual rights, have a voice in choosing who may make decisions on his or her behalf, and avoid the cost and difficulty of petitioning the Court to appoint a guardian.

Currently, there are 1,946 open guardianship cases in Delaware's Court of Chancery. Of that number, approximately 15 - 20 guardians are removed from their duties per year due to: stealing, inattentiveness, etc.

Number of filings:

2016 - 210

2017 - 236

Number of dispositions:

2016 - 628

2017 - 740

Process:

Individuals seeking guardianship complete a petition packet which includes: Petition, Physician's Affidavit, Preliminary Order, Consent Form and Final Order. Petition asks whether individual has a Power of Attorney. Filing fees apply (\$200).

Notice will be sent to next of Kin.

The Court will appoint an attorney ad litem (\$750 baseline fee) to represent the alleged disabled person. He or she will contact petitioner to arrange a convenient time to meet with the disabled person. The attorney ad litem will file a report of their findings with the Court. If family does not have money to pay attorney ad litem fee and falls under Federal poverty level, Courts has funds to cover the fee. The attorney ad litem is the voice of the person with a disability; they represent the disabled individual's best interest.

If guardianship is not contested by next of kin, petitioner appears at a hearing and the Judge will most likely sign the Order. Clerks at the Registry in Chancery will provide final paperwork, handbook and further instructions. Uncontested guardianship process is roughly 4 - 6 weeks.

If guardianship is contested, next of kin files an answer or cross petition (20 days) and the case will be assigned to a Master or Chancellor for a full evidentiary hearing (usually within 30 days). After evidentiary hearing, Master or Chancellor will render a final order. This process can take longer to resolve.

An "interim" or "emergency" guardianship may be requested when a person with a disability needs immediate assistance for urgent medical care, to prevent imminent serious physical harm, or substantial economic loss or expense. An interim guardian may serve for a period of up to 30 days. To request appointment as an interim guardian, petitioner must state in the petition the facts which demonstrate the person with a disability is in danger of incurring immediate serious physical harm or substantial economic loss.

After final order, guardian is responsible for the length of that person's life: medical decisions; where they are going to live; end of life decisions; Medicaid qualification process and finances.

Other than social security, annual financial accounting is submitted to the Court of Chancery. Court staff members review every receipt to look for any misappropriations. Guardians sign a bond usually for one

year's worth of income and any assets that can be turned into a judgement (enforceable by Superior Court).

In addition, a three page medical form is to be completed yearly for guardianship of person.

Court of Chancery amended rules to refine and streamline guardianship procedures for protecting the rights, estates, and well-being of persons with disabilities. Many of the amendments reflect practices already in place. The following amendments became effective July 1, 2018:

- Petition for appointment of guardian for adult with an alleged disability
- Appointment of attorney ad litem upon petition for appointment of guardian; service and notice of hearing
- Hearing upon petition for appointment of guardian
- Petition to exercise powers not granted by Subchapter II of Chapter 39 of Title 12 of the Delaware Code or by the Court
- Petition for instructions regarding life-sustaining procedures
- Guardian of property of a minor
- Termination of guardianship
- Guardianship Monitoring Program of the Office of the Public Guardian

Office of the Public Guardian is utilized when there is nobody able to serve as guardian and no funds either. Master Zurn shared that OPG is underfunded and over performing but provides amazing service. If an individual has financial resources, fee-for-service guardianship providers (currently three in Delaware – Supportive Care, Life Solutions and Senior Partner) will pay bills and make medical decisions for a reasonable fee.

Master Zurn mentioned that there is a working group looking into whether guardianship cases should be located within Family Court instead of Court of Chancery. This stems from a study/poll of attorneys and judges about two years ago through the Jurisdiction Improvement Committee. If anyone is interested in providing recommendations or comments, they should be forwarded to Court of Chancery before September 2018.

To contact Court of Chancery regarding guardianship questions: 302.255.0546.

Division of Aging

Dava Newnam, Director of the Division of Aging and Adults with Physical Disabilities (DSAAPD), provided an overview of services to commission members:

- Largest division within Delaware Health and Social Services (offices in all three counties)
- Target population: older adults (age 60+), adults with physical disabilities (age 18+) and caregivers.
- Promote dignity, respect, and inclusion for older adults and people with disabilities.
- Preserve health, dignity and promote self-sufficiency for older people and individuals with disabilities by providing access to and coordination of the right services at the right time and in the right place.
- Prepare for rapid growth /emerging needs of target population
- Build access to home and community-based services

DSAAPD Services and Programs:

Information and Support: services that provide awareness, assistance and access beginning with the Delaware Aging and Disability Resource Center (ADRC). These include Info & Assistance/Referral (call

center, website, publications); Options or Person-centered Counseling (aka. Personal decision-making support); Care Transition support to facilitate discharge planning/nursing home transitions; Initial/Ongoing Assessments conducted by DSAAPD's Care Assessment Team (Community Nurse & Social Worker); Case Management

Home and Community-Based Services (Long Term Services & Supports): services that allow individuals to maintain their independence and age in place in their own home or community. Services include: home-delivered meals, home modifications, assistive technology, personal care, personal emergency response systems (PERS), self-management programs, employment services, etc.

Caregiving Support: information and resources that support caregivers who are caring for their family member(s). Other services include respite, adult day services, and support for those with dementia and Alzheimer's Disease.

Rights and Protection: programs and services that intervene in critical situations in which adults are in danger of abuse or financial exploitation, including Adult Protective Services/Report Hotline; legal services, etc.

Residential Care: manages Delaware Hospital for the Chronically Ill (Smyrna) and Governor Bacon Health Center (Del. City). DSAAPD also operates an Adult Day Program in Smyrna, DE.

Ms. Newnam advised members that the Division of Aging has 2k+ individuals waiting to receive services. The wait lists exist for most services because the demand far exceeds the supply and is steadily increasing.

Ms. Newnam added "Delaware is in the middle of a dramatic population surge, with thousands of baby boomers joining the age 60+ cohort each year. The oldest baby boomers, born in 1946, turned 60 in 2006. Since then, Delaware has experienced an unprecedented spike in its older population. In 2000, there were 133,925 older Delawareans. By 2015, that number climbed to 211,125 and by 2030, it is estimated that the State will have over 300,000 residents aged 60 and over. It is impossible to overstate the impact that this population growth has had, and will continue to have on the demand for services in Delaware."

To contact the Division of Aging: 800.223.9074.

ACTS Signature Hospice

Karen Netta, Administrator, provided an overview of services to commission members. Acts Retirement-Life Communities (Acts) has been providing senior retirement living since 1972. Acts Retirement-Life Communities is incorporated in Pennsylvania and is designated a 501(c) 3 charitable organization.

Facts:

- ACTS has 23 communities in 9 states
- Currently serving 9,700 residents, in all of the communities combined
- 7,000 employees

ACTS Signature Hospice was created to:

- Promote dignity and quality of life for patients with serious, often life-threatening illnesses and their families.
- Advocate and support informed decision-making
- Ensure patient & families wishes/goals are identified/respected

- Apply pain relief through symptom management and palliative care

Hospice services are a Medicare benefit. Services include: care, medication, equipment and supplies.

ACTS Signature Hospice began offering services in Delaware --- April 2018. ACTS Signature Hospice started offering hospice service in 2007.

In Delaware, services are being provided currently to three residents living at WillowBrooke Court @ Cokesbury Village and WillowBrooke Court @ Country House (both in NCC). The organization plans to offer hospice services in the future at WillowBrooke Court Skilled Center @ Manor House (Sussex).

To contact ACTS Signature Hospice in Delaware: 302.235.6888.

2nd Qtr 2018 QART Report - Margaret Bailey, DNHRQAC

The 2nd Qtr 2018 QART Report was forwarded by the Division of Health Care Quality. The survey team recommended 11 “G” level or higher deficiencies during 2nd quarter 2018. The QART Team reviewed the deficiencies and upgraded one of the citations from “K” level to “L” level because the team decided the failure was widespread. Also, an additional “G” level citation was recommended but not cited as an independent “G” level failure. As a result, there were actually 12 “G” level or higher deficiencies cited during 2nd Qtr 2018.

4. Old/New Business:

FY 18 Annual Report

Margaret Bailey and Lisa Furber will begin working on FY18 annual report draft and present to commission members in the future.

September 2018 DNHRQAC Meeting

Members discussed moving the September 11, 2018 DNHRQAC Meeting to another date. Ms. Bailey will coordinate the alternate September meeting date with commission members.

5. Public Comment:

Annual Caregiver Conference

Easter’s Seals will be hosting their annual caregivers conference August 29, 2018 at the Executive Banquet Center (Bear, DE). Contact Connie Brouillette: 302.221.2087 for more information.

“New” Facilities or Service Providers

The Center @ Eden Hill (Rehab) – Dover

Harbor Chase Senior Living (AL) – North Wilmington

Center for Special Health Care Needs – CCHS, Wilmington

Health Observances

June 15 World Elder Abuse Awareness Day (HCR sponsored by Rep. K. Williams)
Alzheimer's & Brain Awareness month (June)
National Safety month (June)

Educational Initiatives

NH Administration Regulation Course - UD Professional & Continuing Studies

IV Therapy Training - Bay Health (flyer coming soon)

6. Next meeting date/time will be determined after reviewing viable options with commission members.

7. Adjournment

The meeting was adjourned at 12:29 PM AM by Lisa Furber. .

Attachments: May 8, 2018 meeting minutes draft
Court of Chancery – Guardianship facts/caseload
DSAAPD Presentation
QART Report – 2nd Qtr 2018
ACTS Signature Hospice Presentation
2019 DNHRQAC Meeting Schedule – draft